

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CV 03-1435 LH/KBM
CR 00-1152 LH

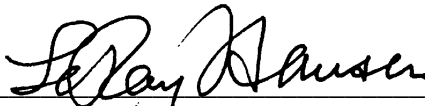
RAFER HARRISON,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant's Amended Motion Pursuant To 28 U.S.C. § 2255 (CV Doc. 39) filed June 21, 2010. Defendant's motion invokes the "relation back" provisions of rule 15(c) of the Federal Rules of Civil Procedure and asserts a claim of ineffective assistance of counsel in the criminal proceeding. "A pleading asserting a 'new ground for relief' from the [criminal] judgment is advancing a new claim and is therefore treated as a successive § [2255 motion]." *United States v. Nelson*, 465 F.3d 1145, 1147 (10th Cir. 2006) (noting same analysis under § 2254 and § 2255). Defendant's motion clearly seeks to challenge, once again, his conviction in the captioned criminal proceeding. Furthermore, the Court of Appeals for the Tenth Circuit recently denied Defendant leave to file a second or successive § 2255 motion against his 2001 conviction (CV Doc. 37). As a result, under the factors in *In re Cline*, 531 F.3d 1249, 1252 (10th Cir. 2008), the Court will dismiss Defendant's motion for lack of jurisdiction.

IT IS THEREFORE ORDERED that Defendant's Amended Motion Pursuant To 28 U.S.C. § 2255 (CV Doc. 39) filed June 21, 2010, is DISMISSED for lack of jurisdiction.



SENIOR UNITED STATES DISTRICT JUDGE